

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Rigie	Team: Squad #1	CCRB Case #: 201503254	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 04/13/2015 9:00 PM	Location of Incident: § 87(2)(b)	Precinct: 75	18 Mo. SOL 10/13/2016	EO SOL 10/13/2016	
Date/Time CV Reported Fri, 04/24/2015 3:22 AM	CV Reported At: Office of City Council member	How CV Reported: In-person	Date/Time Received at CCRB Fri, 04/24/2015 3:22 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POF Yahaira Llano	8492	955072	PBBN
2. POM Jean Prinston	08067	954245	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.POM Jean Prinston	Abuse: PO Jean Prinston questioned § 87(2)(b)	§ 87(2)(b)
B.POF Yahaira Llano	Abuse: PO Yahaira Llano questioned § 87(2)(b)	§ 87(2)(b)
C.POM Jean Prinston	Abuse: PO Jean Prinston stopped § 87(2)(b)	§ 87(2)(b)
D.POF Yahaira Llano	Force: PO Yahaira Llano used physical force against § 87(2)(b)	§ 87(2)(b)

Case Summary

On April 13, 2015, at approximately 9:00 p.m., § 87(2)(b) was attempting to get into his mother in law, § 87(2)(b)'s car in the parking lot of § 87(2)(b) in Brooklyn. § 87(2)(b) had locked her keys in the car and § 87(2)(b) was pulling on all four door handles to check if any were unlocked or if there was a keypad to enter a numeric code and unlock the doors. PO Jean Princeton and PO Yahaira Llano, who were assigned to Patrol Boro Brooklyn North and conducting a patrol of the parking lot, walked towards § 87(2)(b) who approached them and asked if they could help him get into the car. The officers told § 87(2)(b) that they could not help him and began to walk away. § 87(2)(b) also began to walk in the opposite direction. The officers returned to § 87(2)(b)'s car, looked inside through the windows and then called § 87(2)(b) to come back so that they could ask him some additional questions (**Allegations A and B**). § 87(2)(b) initially complied, but then attempted to walk away. PO Princeton blocked § 87(2)(b)'s path, preventing him from leaving (**Allegation C**). The officers continued to question § 87(2)(b) for a couple minutes and then he attempted to walk away again. PO Llano grabbed § 87(2)(b) who responded by turning around quickly and asking her, "What you grabbing me for?" PO Llano responded by punching § 87(2)(b) once in the face with a closed fist (**Allegation D**). § 87(2)(b) was subsequently arrested for resisting arrest, obstruction of governmental administration, and returned on two open warrants. § 87(2)(b) was not charged with attempting to break into § 87(2)(b)'s car, because she came to the scene after the allegation took place and confirmed that § 87(2)(b) was allowed to use her car.

The incident was captured on two building security cameras (Snagit Videos #1 and #2).

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation during his interview, § 87(2)(b)
- § 87(2)(b)
- On June 22, 2015, a FOIL request for § 87(2)(b) confirmed that he has not filed any notices of claim for this incident (03 Board Review).

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first CCRB complaint (04 Board Review).
- PO Llano has been a member of the NYPD for one year and this is her first CCRB complaint.

- PO Prinston has been a member of the NYPD for two years and this is his second CCRB complaint. No allegations in the previous case were substantiated § 87(2)(g)

Potential Issues

- No independent witnesses were identified (see IA's).

Findings and Recommendations

Allegations not pleaded

- PO Llano said during her interview that she frisked § 87(2)(b)'s pockets and waist line prior to him being placed under arrest. § 87(2)(g) (01 and 05 Board Review).
- § 87(2)(g) (Snagit Video #1).

Allegation A- Abuse of Authority: PO Jean Prinston questioned § 87(2)(b)

Allegation B- Abuse of Authority: PO Yahaira Llano questioned § 87(2)(b)

Allegation C- Abuse of Authority: PO Jean Prinston stopped § 87(2)(b)

§ 87(2)(b) said that when PO Prinston and PO Llano approached, he was looking for a button on the side of § 87(2)(b)'s car that would unlock the doors, but he was not able to find such a button. On seeing the officers' approach, § 87(2)(b) walked up to them and asked if they had the "night stick to open the car." On asking this question, PO Prinston allegedly asked § 87(2)(b) "Whose car is this? Are you stealing cars?" § 87(2)(b) replied that the car belonged to his mother in law and that he and the officers then walked away from each other. After walking away from the officers, § 87(2)(b) dropped a metro card. As he went to pick it up, PO Llano ran over to § 87(2)(b) and asked him for ID. § 87(2)(b) told PO Llano that he did not have any ID on him and began to walk away. § 87(2)(b) believed that he was free to leave, because in previous encounters with officers, he was specifically told that he was stopped. PO Llano then allegedly grabbed § 87(2)(b) on his left shoulder to stop him from leaving (01 Board Review).

In an unverified phone statement, § 87(2)(b) said that video footage captured her car being broken into in a prior unrelated incident on an unknown date while he car was parked in the same parking lot (06 Board Review).

Snagit Video#1, located at the right corner of § 87(2)(b) parking lot closest to building, at 20:56 showed § 87(2)(b) walking around § 87(2)(b)'s car and looking inside when the officers approached. On seeing the officers, § 87(2)(b) walked towards them and all three walked off camera. The footage then showed § 87(2)(b) walk back on camera and away from

§ 87(2)(b)'s car. PO Llano and PO Princeton then walked back on camera and looked inside § 87(2)(b)'s car with flashlights. PO Princeton then appeared to say something to § 87(2)(b) who turned around and walked back toward the officers. The officers walked towards § 87(2)(b) at the same time. Both officers appeared to speak to § 87(2)(b) who attempted to walk away at 20:59 and PO Princeton blocks his path by stepping in front of him. Contrary to § 87(2)(b)'s statement, PO Llano does not grab his arm at this point.

PO Princeton said that he and PO Llano had received prior complaints about individuals breaking into cars in the parking lot of § 87(2)(b). As the officers approached § 87(2)(b) PO Princeton observed him walking around § 87(2)(b)'s car and pulling on all four door handles. On seeing the officers, § 87(2)(b) approached them and asked if they could open the car for him. PO Princeton responded by asking § 87(2)(b) if he had any ID or a key to prove the vehicle was his. § 87(2)(b) responded that everything was locked inside the car. PO Princeton then asked § 87(2)(b) whose car he was attempting to get into. § 87(2)(b) told the officers that it was his mother's vehicle. PO Princeton suggested that § 87(2)(b) ask his mother for the key and § 87(2)(b) began to walk away. As PO Princeton was about to walk away he looked inside the car and saw a female's purse and a smaller purse with a cell phone and multiple credit cards sticking out. PO Princeton then told § 87(2)(b) to come back and answer a few questions. § 87(2)(b) initially complied, but when PO Princeton asked him for ID, § 87(2)(b) said that he had none and attempted to walk away from the officers. PO Princeton blocked § 87(2)(b)'s path and then informed him that he was being detained (08 Board Review).

PO Llano confirmed that § 87(2)(b) was pulling on all four door handles and that she and PO Princeton observed a purse and other items belonging to a female in the car. At that point, the officers called § 87(2)(b) back to them in order to further investigate, because they did not believe that the car was his (05 Board Review).

According to the People of the State of New York v. Louis DeBour, officers are justified making a common law inquiry, a level II question, if they have founded suspicion that criminality is afoot and may seize an individual physically or constructively, a level III stop, if they have a reasonable suspicion (People V. DeBour 49 AD2d 1038) (10 Board Review).

According to The People of the State of New York v. Lenworth Walton, a variety of factors including an individual's suspicious behavior in the presence of officers, failure to identify himself, and failure to comply with instructions justified a stop (the People of the State of New York v. Lenworth Walton 4395/2003) (11 Board Review).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

Allegation D-Force: PO Yahaira Llano used physical force against § 87(2)(b)

§ 87(2)(b) said that as he attempted to walk away from the officers, PO Llano grabbed him on the left shoulder and he reacted by quickly turning around and aggressively asking her, “What you grabbing me for?” while thrusting his torso towards her. PO Llano then punched § 87(2)(b) once in his left cheek bone with a closed fist. The punch hurt § 87(2)(b) a little, but was not hard enough to cause any injuries. § 87(2)(b) responded by asking PO Llano why she punched him in the face. PO Llano told § 87(2)(b) to turn around and put his hands behind his back. § 87(2)(b) complied and PO Llano then put him into handcuffs. § 87(2)(b) later “cursed out” the officers when they told him that he had two active warrants. § 87(2)(b) did not request or seek any medical treatment (01 Board Review).

Snagit Video #1 located at the right corner of 2060 Pennsylvania Avenue parking lot closest to building, at 20:59:30 showed that § 87(2)(b) tried to walk away from the officers a second time and is grabbed by PO Llano and then by PO Princeton. § 87(2)(b) appeared to attempt to pull away from the officers as he had described. PO Llano appeared to move her body quickly, but the footage does not clearly show what happened. PO Princeton did not appear to take any action other than grabbing § 87(2)(b). After this brief struggle, § 87(2)(b) turned around was placed into handcuffs.

Snagit Video #2 located at the center of 2060 Pennsylvania Avenue parking lot closest to building, showed PO Llano appear to grab § 87(2)(b) who shook her off and attempt to move away from her as he had described in his statement. PO Llano then moved her hand quickly towards him, but it is not clear exactly what action she took. § 87(2)(b) took a further step back after this action, but was grabbed by PO Llano and then PO Princeton. After this, § 87(2)(b) appeared to turn around on his own and was handcuffed by PO Llano with PO Princeton assisting. § 87(2)(b) appeared to have his arms at his side.

During her CCRB interview, PO Llano said that in response to the officer’s questions, § 87(2)(b) began to yell and got to within a foot or two of her on two separate occasions. The first time PO Llano pushed him away. However, when he moved close to her a second time, PO Llano thought that he was going to try to fight her. PO Llano did not remember what § 87(2)(b) was doing with his hands, but said that she felt threatened because he was yelling and moved close to her twice. PO Llano responded to this perceived threat by punching § 87(2)(b) once in the face with a closed fist. § 87(2)(b) reacted to the punch by yelling that it was not fair that PO Llano hit him. PO Llano then handcuffed § 87(2)(b) (05 Board Review).

PO Princeton said that he did not remember if he or PO Llano grabbed § 87(2)(b) first, but § 87(2)(b) pulled his arms away from the officers in an attempt to prevent them from handcuffing him. PO Llano then punched § 87(2)(b) once in the forehead with a closed fist (08 Board Review).

P.G. 203-11 requires that officers use only minimum necessary force (13 Board Review).

According to People v. Sgt. Franco Basandella, an officer punching a female in the face was ruled to be a lawful and appropriate act of self-defense when the enraged female ran toward the officer

after previously throwing a partially empty water bottle at him. In this case, the court also decided that the female's minor injury, consisting of a black eye, was indicative of moderate force applied for self-defense as opposed to a deliberate assault, which would have presumably caused more severe injuries (Oath Index case# 79474/03) (07. Board Review).

§ 87(2)(g)

Pod: 1

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date